

Dear Judge Cote:

I am Rochelle Smerling, Elliot Smerling's mother. I am an 83-year-old widow and currently reside in Boynton Beach, Florida. I taught American History in Little Neck, Queens for 25 years and was voted Social Studies Teacher of the Year for New York City and New York State.

My husband and I adopted our two older children at birth, and were then blessed with my son Elliot in 1968. Elliot has always been the stalwart of the family and was referred to by the affectionate term "the baby."

Elliot was the consummate overachiever – he graduated high school in three and a half years, and from a four year college in three years. From there, he went on to achieve a Master's Degree. He has always been a wonderful, caring son who was always the one who reminded family members of upcoming birthdays and celebrations.

Elliot was an active member of the community and served as a director on several boards. He was a member of the University of Miami Board of Trustees. He always participated in his daughters' school activities and organized walks to benefit fundraisers for his children's schools.

Every Sunday, Elliot and his family would come to visit me. I miss these visits enormously. Where there was laughter, there are now tears. There is an empty seat at the table where Elliot used to sit. We miss his presence, guidance, and sense of humor. His daughters have lost an involved and devoted father at a crucial time in their lives, as they transition from teens to adults.

Knowing Elliot as only a mother can, I assure the Court that he will persevere, learn from his mistakes, and return to being a contributing member to society. We hope he will return to us soon, and I beg you to consider all the good that Elliot has given to his family and community when deciding on an appropriate sentence for my son. Elliot feels immense guilt and regret over this tragedy, and I know he will use this experience to become a better man.

Sincerely,

Rochelle Smerling

Honorable Judge Cote:

My name is Barry C. Smerling, and I'm writing on behalf of my younger brother Elliot. Elliot always proved to be a loving brother, uncle, son, friend, husband, father, son-in-law and community member. He has always been there to help everyone in his life.

Elliot is the type of person who is deeply involved in the lives and wellbeing of his family, friends, and community. He is raising two beautiful and bright teen-age daughters. No matter what was going on in his life, he consistently had breakfast with our elderly mother nearly every weekend. Elliot would always be at family gatherings. He remains in close contact with all his friends, often attends their children's birthdays, and meets them when they come to Florida. Elliot was also very active with the University of Miami's Herbert Business School where he served on the Entrepreneurship Advisory Board. Elliot loved mentoring graduate business students and teaching them to succeed. Elliot always found the time to dedicate to young people who wanted to learn about business and finance.

Throughout this last year, whenever I've spoken to Elliot, he worries deeply for the future of his family. He has expressed remorse in what he did, and is devastated about the pain and humiliation he has caused to those he loves. Mostly, he is deeply ashamed about the example he has set for his daughters and worries about our mother's health.

We, as a family, are doing all that we can to keep some sort of normalcy in this tumultuous time, but Elliot's daughters and wife are hurting financially and emotionally. They are feeling the brunt of Elliot's absence and have lost everything (including their family home). Elliot regrets that the very people for whom he intended to provide a good life have now suffered the opposite consequence due to his actions.

I hope this brief letter gives you a glimpse into the character of my brother, and respectfully ask that you consider this when determining his sentence.

Respectfully,

Barry C. Smerling

Honorable Denise L. Cote
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10017

Dear Judge Cote,

Thank you for taking the time to read this letter on behalf of Elliot Smerling. My name is Jill Kirsch, and I am Elliot's older sister.

This is a difficult letter to write as I am still at a loss over how all of this happened. My brother Elliot is, and has always been, an extremely loving and loyal person.

Over the past 13 months I have had the opportunity to speak to many of Elliot's close friends and family members and to hear their opinions of his character. They all described him in the same way as I do; as a caring, compassionate and loyal man. Everyone I spoke to recounted stories of how, without being asked, Elliot helped them, their family, and anyone who needed a hand. He was always the one who took on other people's problems and quickly solved them without expecting anything in return. When my son broke his wrist playing soccer, Elliot was the first person I called to see if he could help me find someone to operate quickly. He called every doctor he knew to get me help. He has always been the one on whom we relied.

Most of Elliot's close friends are ones he met in kindergarten and first grade. While talking to them about Elliot, I was surprised to learn that for years he has called most of them every week (and some every day) to check in and see how they are doing. They all described his compassion and difficulty at seeing people suffer. I, too, have seen this compassion in him. Two years ago, when his roommate from college was battling a very serious disease and had to come to New York for treatment all alone, without his wife and children, Elliot and his wife came to New York to stay in the hospital, sleeping several nights on chairs in the lobby so that his friend wouldn't be alone.

With regard to the charges, I know that Elliot recognizes the seriousness of his crime and is taking full responsibility for it. Although I don't know how and why this happened, I do know that if my brother had considered the actual consequences of his actions, he never would have done this.

I truly believe that Elliot is rehabilitated, and I know he has a lot more to offer any community he may be a part of in the future. I ask you to take this into consideration during sentencing, and I thank you for your time.

Regards,
Jill Kirsch

Honorable Judge Cote:

My name is Eric Allen, and I have known Elliot Smerling since our first day as freshmen at the University of Tampa. Over a sincere conversation during our lunch hour, Elliot became one of my best friends. Our shared geographical, recreational and family circumstances always made for fun conversation, and we frequently spoke about our interests and hobbies. Our friendship evolved as Elliot's children and my daughter created their own friendships and enjoyed good times together at Disney World and Vermont.

Elliot has been a full participant in family and community. Elliot has devoted time and energy to the University of Tampa Alumni Association and supported entrepreneurship education at the University of Miami. More so, Elliot is a devoted husband to Elaine and dedicated dad to his two daughters. Elliot's vacations and free time were dedicated to spending time with his family and helping his mother whenever possible.

I believe that this experience has taught Elliot that his dedication to his family must fall within the rule of law. I know Elliot wanted to provide the best life possible for his family, especially his girls, and he let this affect his judgment. Unfortunately, Elliot's intentions took a wrong turn and he is now living with the consequences of his actions. I know that this time away from his family has affected Elliot greatly, and I cannot imagine that he would repeat this experience. I hope you can see your way to show mercy for him.

Sincerely,
Eric A. Allen

Honorable Judge Cote,

My name is Gary Shapiro and I have been a close personal friend of Elliot Smerling for pretty much my entire life, which amounts to almost 53 years. In all the years that I have known Elliot, he has proven himself to be a kind and loyal friend who would do anything for those in his life, as well as a dependable and supportive husband, father, brother, and son.

As an example of something that is typical of Elliot's character, he dropped everything that was going on in his life to come to New York to be there for myself and my family after the death of my father. His compassion, along with his contagious laugh, really helped me to get through a difficult time in my life. In addition, whenever we had the opportunity to visit with him and his family in Florida, he went out of his way to make us feel welcome and ensure our trip was a pleasant one.

Knowing Elliot as well as I do, I am confident that the decisions that he made in the past will never again be repeated. During one of our phone calls, he expressed to me that nothing in life is worth more to him than time with his wife and children, and this realization has become even more clear to him since he has been apart from them this past year.

Please feel free to contact me if I can be of further assistance. I would like to ask the court to take this letter into consideration when considering Elliot's sentence.

Sincerely,

Gary Shapiro

Honorable Judge Cote:

I am writing on behalf of Elliot Smerling. I am a licensed attorney from Kentucky who has practiced in the Eastern and Western Districts of Kentucky; the Southern District of Indiana; Fifth and Sixth Circuit Courts; and the United States Supreme Court. I served on the appointed counsel list for the Western District of Kentucky and the Southern District of Indiana from 1985 until my retirement in 2015.

I have known Elliot since I relocated from Kentucky to South Florida in 2015. My uncle Murray Teitel was married to Elliot's mother Rochelle Smerling. I have spent time at family gatherings with Elliot, his wife and two children, and Elliot's brother and sister and their families.

The Elliot I know is a kind and generous member of his family and community. The offense to which he has pled guilty seems incongruous to the man I have known these past six years. When I have spoken with Elliot during his incarceration, he seems genuinely remorseful and understands the gravity of his conduct. I am certain that Elliot is unlikely to recidivate, given his support system and acceptance of responsibility in this case.

I hope that the Court will consider this and impose a sentence sufficient but not greater than necessary to achieve the goals of the Sentencing Guidelines.

Respectfully submitted,

William Yesowitch, Sr.

Dear Judge Cote:

I have known Elliot Smerling for the past 30 years. He is like a third son to me. Elliot has always shown concern for others and is very personable and caring. I love watching how he interacts with his daughters Julia and Sophia. He is a loving, caring, involved father, and a dedicated partner to his wife Elaine.

The entire family is devastated by Elliot's actions in this case. Elaine and the girls are particularly affected since everything they knew and lived is now gone. I hope the Court will take into consideration how much the family needs Elliot, and allow him to rejoin society once again.

Sincerely,

Margaret Poplinger

Dear Judge Cote:

My name is Marc Schumacher. I am 53 years old and have been a close friend of Elliot Smerling's since 1974. I grew up across the street from the Smerlings and spent my most formative years running in and out of their house. Elliot's house was like my second home because it was so similar to mine. The Smerlings' home was filled with love, affection and respect for elders, with a strong emphasis on education. I would be happy for my kids to have an upbringing like the one we had in East Northport, Long Island, NY in the 1970's and 80's.

Compared with the kids of today, the freedoms that we had back then are just hard to explain. I mention this because throughout our childhood and teenage years, I don't ever recall Elliot doing anything that would have been considered self-destructive, "out of line," or immoral. Elliot is one of the sweetest people you will ever meet. He wears his heart on his sleeve and you know exactly where you stand when you are with him. He has always been there for my family and me, in good times and in bad. I know, without a doubt, that he would do anything to help his friends and family. He was present at every monumental occasion in my life - my bar mitzvah, my wedding, our high school graduation and the funerals of both of my parents. He was always "Mr. Reliable" and I know in my heart that he is a good person.

My parents were close friends with the Smerlings from the day we all moved into the neighborhood and, after the death of Elliot's father, remained close friends with his mother until the day they passed. The Smerlings were always a solid family who practiced the same values with which I raise my own children. They were hard working and, as Elliot's mother was an educator, there was always an atmosphere of guidance in their home. Elliot is someone whom I would trust with my own life and the lives of my family.

For the life of me, I cannot imagine how difficult it must be for Elliot to be separated from his friends and especially his family, when these people are such a huge part of who he is. I know for Elliot, who was raised in such a loving, close-knit family, being with his own family is of the utmost importance. I know that if he could turn back time and make the pain he has caused his loved ones go away, he would do so in an instant.

I write this letter with the hope that the Court may be able to get an idea of what a kind-hearted man Elliot Smerling truly is, so that you may understand how vital his presence is in the lives of his two beautiful daughters, as well as the rest of his family.

Thank you for taking the time and allowing me to share my thoughts on a remarkable friend.

Sincerely,

Marc Schumacher

To the Honorable Denise Cote:

I have known Elliot for 36 years, first meeting him freshman year in college at the University of Tampa in 1986. He and I became friends from the start; once you are a friend of Elliot, you become part of his family. The day after my dad died, he was on a plane to my house and stayed to help with anything he could. Since that day when either of us calls the other, his first words to me are, "how is your mom?" And, he never forgets to call on my dad's birthday.

Elliot is kind, loyal, funny, and generous with his time.

Elliot's family is his world, especially his two daughters and his wife. For his daughters, he was always there to see them grow and be part of their life experiences. He understands that these treasured moments are in jeopardy and this weighs heavily on him.

To know Elliot is to know you want him in your life. I am grateful to have him in mine. I hope you will take this into consideration when deciding on Elliot's sentence.

Regards,

Peter Rintelman

DOUGLAS K. BURNETTI*

DAVID F. ANDERSON

LAWRENCE ANZALONE**

JEFFREY P. DIAMOND

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April 1, 2022

Honorable Judge Cote:

I have known Elliot Smerling since we were 9 years old. I was traded onto his little league team in 1978. We competed for the same position, and I won by default as Elliot was promoted to pitcher. We became friends immediately. Our friendship has lasted over 40 years and I hold him and his family dear to my heart.

I have two children, Nathan and Benjamin. If something were to happen to me and my wife, I entrusted Elliot in my Will to care for our boys. There was no hesitation in that decision. Elliot has always been there for me, my wife, our sons, and even my parents. He is truly family. We have seen each other through the good times and bad. This is the worst.

I cannot imagine what drove my dear friend down the road he has traveled. Elliot is a man who adores his wife and daughters. He dotes on them like no other. He is a loyal friend and top-notch confidant. I have seen no better father.

There will be no excuses made for my friend in this letter. I spent some of my best work years as a prosecutor in Polk County Florida. I understand there will be, and even must be, punishment. I only hope that Your Honor understands that Elliot Smerling is a good man. He was, is, and will be again. That I promise. When he returns home, it will be my mission to help him regain the trust he has forsaken.

I pray that his sentence is at the bottom of the guidelines so that my friend may return to his wife and most importantly his precious daughters. While I maintain contact with his family, neither I nor anyone else can replace Elliot.

Sincerely,



Philip J. Slotnick, Esq.

Dear Judge Cote,

My name is Redick Brown and I am a personal friend of Elliot Smerling. We met in 2010 shortly after my relocation to Wellington, FL. Our daughters danced together and our wives struck up a conversation one day that led to the four of us meeting for dinner on a Friday night. We had a lot of fun and decided to do it again the next week...except this time we added ballroom dancing. This went on for about a year because that's when we realized we were much better at eating dinner than we would ever be at dancing.

Those date nights were the genesis of a friendship that goes beyond myself and Elliot. Our wives became sisters. Our children became close, and ultimately we all became family.

Elliot is the friend who calls you at 6 AM to check on you for the day and asks why you aren't up yet...because he started the day at 3AM. He's the friend who dropped everything to spend time with me when my Mother suddenly died of a heart attack. He's the big brother that God sent to meet me in 2010.

In our conversations since this all occurred, it is clear to me that he is remorseful for what he has done. The jovial spirit and pride that was once present has diminished. That has been replaced with the shame of recognizing the consequences of his conduct. The family and life that he created has been fractured by his poor decisions and has sent a shockwave of pain through the veins of those who love him most. My belief is that Elliot is truly remorseful for what he has done and will work to ensure that the pain he has caused will never occur again.

Ten plus years ago when we met, he was Elliot. Now, to my wife and I he's El, our brother, and to my kids he's Uncle Elliot. As you make your sentencing decision, my request is that you take these things into consideration. I miss those 6 AM calls and my kids miss their Uncle El.

Thank you for your consideration,

Redick Brown

Honorable Judge Cote:

I have known Elliot Smerling since the day he was born and have watched him grow and mature through his school years and adult life. Elliot has been a strong support for his mother and myself when we became widowed. We always knew that he would be there when needed.

Elliot has also been a good husband to his wife Elaine and exemplary father to his daughters J and S. Elliot's girls are his great pride and joy. Elliot is a wonderful brother and great "nephew" and "cousin" to my children and me. He has also been an outstanding son-in-law and caring son.

Elliot's family has been devastated by his loss. I pray that you will take this into consideration when making a judgment about Elliot's fate.

Regards,

Rosalind Weil

Honorable Judge Cote:

I write with regard to Elliot Smerling. I have known Elliot for close to 46 years. I first met Elliot during the summer when we were eight years old at a boy scout camp. That Fall, we attended third grade together. Thereafter, we attended the same middle school and high school. I was in attendance at his wedding and he at mine. Indeed, I served as a co-best man with his brother Barry. I have a long history of witnessing his interaction with others. As such, I would like to take this opportunity to share with your Honor some of my observations of him as a good person outside of the events that bring him before your Court.

I would like your Honor to know that Elliot, above all, is a family man. He is a great father to his two daughters Julia and Sophia and husband to his wife Elaine. Family means everything to Elliot down to his core.

As the son of a New York City public-school teacher and retail carpet store owner, Elliot was taught from a young age to value formal education, continued learning, and hard work. I have personally observed Elliot's devotion to these values and how he imparts them to his children and others. Another key aspect to Elliot's personality is his empathy and compassion. Elliot always asks about other people first before ever discussing himself. Elliot listens and actively tries to help, no matter the issue. He demonstrates support for his friends and their children and highly values personal relationships. He loves to help and is generous with his time. He demonstrates true caring when others are ill. When someone suffers a death close to them, Elliot is deeply empathetic and will dependably attend the funeral, whether convenient travel-wise or not, to show final respect and support.

In good times and bad, Elliot has always been there for me and my family. This is a small glimpse of the positive character traits of the Elliot Smerling that I know. I hope you can consider this when deciding on his sentence.

Respectfully,
Seth Goldberg

Honorable Judge Cote:

My name is Elaine Smerling. I am Elliot's wife and I have known him for 22 years. How can one begin to describe their soulmate? The moment I met Elliot, I felt as if the stars aligned, for he is my night and I am his day. The conversations I replay in my mind are like a broken record: we talked about what we would name our first child and laughed at inside jokes between us.

Elliot taught me what it was like to fall in love, and I fell in love with him all over again each time I saw how he looked at our daughters as they came into this world. Through his kindness, Elliot showed me that love is in everything we do. He is the better half of myself, and every moment I am not near him I feel as if I'm being torn in half and every cell in my body is screaming for the other part of me.

Elliot is also an amazing father - I could watch him all day with our daughters. From going to movie theaters, taking long walks in the park, traveling around the globe, etc., we did everything together. And he always had a lesson to share with the girls. I never had to worry about their schoolwork because he always had everything planned and ready to go. Elliot was especially eager to help the girls on their journey to college.

Elliot was always ready to help everybody: if someone had a problem, Elliot would be there to rescue them. When my friend Alex was diagnosed with brain cancer, Elliot stopped everything to call every doctor and friend he knew who could help. Moreover, when my father was also diagnosed with cancer and wasn't able to work, Elliot took care of him. He also cared for my mother and my family in Brazil when they faced financial hardships after my father passed. I will forever be grateful for this.

Elliot would wake up when the sun was still sleeping so that he could begin his work. Even when he was exhausted, he persisted in doing so because his main motivation was to provide for his family. Elliot also called his friends every morning to see how they were doing and check in with them. I've never seen him forget someone's birthday, anniversary, or special occasion.

Elliot has good moral character. I realize this may be hard to believe, given the circumstances. Elliot has told me how much he regrets his actions, and I believe in him. I believe that our family will be together again. I believe that God has plans for all of us, and sometimes, God changes those plans to teach us a lesson that will help us become better people.

It is my sincere hope that you consider this letter at the time of sentencing. Despite his actions in this case, I still believe Elliot has much to offer his family, his community and especially, our daughters.

Most respectfully,
Elaine Smerling

Your Honor,

My name is S.S. and I am Elliot Smerling's daughter. I am 15 years old. My dad has always provided for my family and taken care of us. He has changed my life in so many ways and without him, I don't know where I would be.

As a kid, he would always be there for me when I needed help with schoolwork, or just needed help with something in general. My father and mother have taught me right from wrong since day one. My father is a kind man and always treated my mother, sister, and me with respect. When we were younger, almost every weekend, he would take us to the movies and then for ice cream right after. We would have a splendid time, while laughing and eating. He always took care of us and treated us like his little princesses.

Every summer, we would travel as a family and have the best adventures. Wherever we went, we had the most amazing time because we were always together. A few times every year, my family would go to Disney. My dad took us on all the roller coasters while screaming our lungs out. We had the best childhood with him, and I still have a wonderful time when I am with him and the rest of my family. He always knew how to make me laugh when I was sad and how to cheer me up. Even when we were all dressed nicely for Easter, we jumped into the pool together, with no care in the world.

My dad always put our family before himself. He provided for us, gave us his love, and show affection towards us. I have always been, and always will be, his little girl. He has taught me so many good things in life, and I miss all of our memories together.

I believe he has learned a lot from this experience. Just from visiting him last July, I could tell how disappointed he was to be on the other side of the glass window and not with my mother, sister, and I. When I first found out what happened I was truly shocked since my dad is a kind and loving man. Since the day I found out, I have written notes every day about how my day was and what I did, so when I see him again I can tell him everything. He would always be the person I would joke with and play around. He knew how to make his daughters smile, laugh, and be happy. He cares deeply for his family, and we care deeply for him. I believe he feels extremely bad about what he did, and he will never do it again.

Sincerely,
S.S.

Dear Judge Cote,

When I see the glass barrier that separates us, I still see the man who raised me sitting in front of me. His scruffy beard and tired, yet resilient, face complements his tangerine-colored suit. The image is engraved into my mind of how he focused on his callus-filled hands, holding what he has to say between them. How could one begin to apologize for missing almost two years of significant memories and moments with his family?

My father is Elliot Scott Smerling. Otherwise known as "dad" to me. Since before I could even start speaking, my father made sure to instill moral principles in me, for he wanted his children to be more than he was, and that is what amazes me most about my father. As human beings we are all flawed, it's in our nature, it is who we are. But those who try, even when all odds are against them, are the ones who make the most significant change.

My dad taught me compassion: he showed me how to hold a bunny so that I could understand how to be gentle and patient. Teaching me how to hold that bunny was only a seed for all the life lessons my father planted in myself and my sister. The most admirable trait about my father is his dedication. His entire body might be aching, begging for sleep, but he would persist. He worked and worked until he physically couldn't. I once asked him why he worked himself past the point of exhaustion, and he said it was because he wanted to give my sister and I the future we deserved. I hold that dear to me every day.

My father gave everything, not only to us, but to others. He wanted to give people opportunities to continue their careers, such as when he funded scholarships for low-income students. He did this because my father had lived: Every day he would tell us a different story and a different lesson alongside it. These stories were a mere catalyst for everything he wanted to teach us.

Every time I'm handed the phone to talk to my father he apologizes. His head drops and he stares at the ground, and he apologizes for this situation and the hurt he's caused. This situation has been a learning experience for not just him, but for myself. I am not well accomplished or significant person by any means, but I hope it's apparent that my words speak the truth about my father. I hope these words may resonate with you.

In all honesty, I have carried much frustration and sadness towards my father in this situation, yet I am learning to forgive him. I am learning to understand, and if I can forgive, then I have hope that others may as well. I hope you can show my father mercy and compassion in this case.

Sincerely and with my utmost respect,

J.S.